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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,378	04/22/2004	Gordon Anderson	003-129	7086

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CERMAK & KENEALY LLP  
515 E. BRADDOCK RD  
ALEXANDRIA, VA 22314

EXAMINER
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HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/829,378

Applicant(s)

ANDERSON ET AL.

Examiner

Robert A. Hopkins

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9-20-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 lines 2 and 4 recites "the first channel". There is a lack of antecedent basis in previous claim limitations for "the first channel". Correction is requested.

Claims 2-11 depend on claim 1 and hence are also rejected.

Claim 7 line 3 recites "into this". Examiner is unsure as to what structure is being referred to be "this". Correction is requested.

Claim 9 provides for the use of a device according to claim 1 in a cooling system of a flow machine, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 9-11 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,7-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bogusz(4772299).

Bogusz teaches a device for filtering particles from a stream, with an inflow channel(18) for the inlet and at least one outflow channel(40) opening into the inflow channel(see figure 3) for the outlet of the stream, the outflow channel having a channel shaped extension(34) which extends with a free end into the inflow channel, wherein at the free end of the extension element a cover element(20) is arranged which covers an end inflow aperture of the extension element at the end of the free end, such that a straight line inflow into the extension element is prevented. Bogusz further teaches wherein the cover element is arranged spaced upstream of the end of the free end of the extension element(34). Bogusz further teaches wherein at least one further outflow channel(37) is arranged, which opens, substantially flush with the wall of the inflow channel. Bogusz further teaches wherein the extension element extends over a distance in the first channel which at least corresponds to the diameter of the outflow channel on which it is arranged. Bogusz further teaches a method of using the device in a cooling system of a flow machine.

Claims 1,2,7-9, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hobbs(4389227).

Hobbs teaches a device for filtering particles from a stream, with an inflow channel(11) for the inlet and at least one outflow channel(14) opening into the inflow channel(see figure 1) for the outlet of the stream, the outflow channel having a channel shaped extension(13) which extends with a free end into the inflow channel, wherein at the free end of the extension element a cover element(16) is arranged which covers an end inflow aperture of the extension element at the end of the free end, such that a straight line inflow into the extension element is prevented. Bogusz further teaches wherein the cover element is arranged spaced upstream of the end of the free end of the extension element(13). Hobbs further teaches wherein at least one further outflow channel(19) is arranged, which opens, substantially flush with the wall of the inflow channel. Hobbs further teaches wherein the extension element extends over a distance in the first channel which at least corresponds to the diameter of the outflow channel on which it is arranged. Hobbs further teaches a method of using the device in a cooling system of a flow machine. Hobbs further teaches wherein the at least one outflow channel is in flow connection with cooling channels of guide and running vanes of a turbine.

Claims 1,3,4,7-9, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Christensen(4076508).

Christensen teaches a device for filtering particles from a stream, with an inflow channel(12) for the inlet and at least one outflow channel(14) opening into the inflow

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channel(see figure 1) for the outlet of the stream, the outflow channel having a channel shaped extension(see figure 1) which extends with a free end into the inflow channel, wherein at the free end of the extension element a cover element(22) is arranged which covers an end inflow aperture of the extension element at the end of the free end, such that a straight line inflow into the extension element is prevented. Christensen further teaches wherein the cover element closes the end inflow aperture. Christensen further teaches wherein the extension element has at least one laterally arranged inflow aperture(21). Christensen further teaches wherein at least one further outflow channel(250 is arranged, which opens, substantially flush with the wall of the inflow channel. Christensen further teaches wherein the extension element extends over a distance in the first channel which at least corresponds to the diameter of the outflow channel on which it is arranged. Christensen further teaches a method of using the device in a cooling system of a flow machine. Christensen further teaches wherein the at least one outflow channel is in flow connection with cooling channels of guide and running vanes of a turbine.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Examiner notes and has reviewed the references in the search reports dated 1/28/03 and 1/31/02, however Examiner concludes that none of the references teach the limitations of claim 1 individually or collectively.

***Allowable Subject Matter***

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 5 recites "wherein the cover element is constituted hood-shaped, and axially at least partially covers the extension element". None of the prior art references of record teach a cover element which axially at least partially covers an extension element. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a cover element which axially at least partially covers an extension element because none of the prior art references suggest such a modification. Claim 6 depends on claim 5 and hence would also be allowable upon incorporation of claim 5 into claim 1.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rah  
November 10, 2005



ROBERT A. HOPKINS  
PRIMARY EXAMINER